Through the Looking Glass – Legislative, Regulatory and Policy Issues

Elizabeth N. Sjoberg, RN, J.D.
Vice President/Associate General Counsel
Texas Hospital Association
esjoberg@tha.org
Legislative Issues
The Texas Legislative Session

- Biennial Regular Session for 140 Days
- Second Tuesday of January
- Odd-Numbered Years
- Sine Die!
- 8,000 Bills Filed on Average
- THA Tracks average of 900 bills
- Special Called Sessions
- Interim
Bicameral Legislature

- Texas Constitution sets Election Process
  - Texas House: 150 Members with Two Year Terms
  - Texas Senate: 31 Members with Four Year Terms
- Citizen Part-Time Legislature
- Primary Election in March (even years)
- General Election in November (even years)
- Take Office on First Day of Session in January (odd years)
The Capitol Leadership

- **Speaker of the House**
  - Elected by 149 Peers
  - Selects Committee Chairs
  - Calendars Committee Sets House Agenda

- **Lieutenant Governor Statewide Elected Official**
  - Selects Committee Chairs
  - Sets Senate Calendar

- **Governor Statewide Elected Official**
  - Veto Pen

- **Committee Chairs (*new?)**
  - Sets Jurisdictional Priorities for Legislation

- **Both Houses Govern Under Rules Adopted by Body**
Texas State Budget

- Texas Writes a Biennial Budget
- “Must Pass” Legislation
- Texas Constitution Requires Balanced Budget
- State revenue from sales tax
- Economic Stabilization Fund
  - Rainy Day Fund
The average legislative office handles the following during the 140-day session:

- 6,000 + bills
- 6,000 telephone calls
- 5,000 drop-in visitors
- 8,000 letters
- 15,000 emails
- 600 invitations
Legislative/Interim Issues

- Hospital reimbursement methodologies
- 1115 waiver renewal/extension
- Future of Driver Responsibility Program and trauma care funding for trauma hospitals
- Access to behavioral care
- Telehealth
- Prompt pay penalties
Support Medicaid reimbursement rates that reduce reliance on supplemental payments and protect access to care by:

---increasing Medicaid reimbursement rates to those hospitals that serve a large number of Medicaid and uninsured patients, and

---supporting Medicaid reimbursement rates that more accurately reflect the cost of delivering care.
Medicaid 1115 Transformation Waiver

- Uncompensated care (UC) funding – offsets some of the costs of providing care to uninsured and Medicaid patients.

- DSRIP projects and funding – 1,491 active projects earned payments of $11.4 billion between 2011 and 2016.

- Statewide Medicaid Managed Care-- $8.65 billion savings over the five years of waiver.

Extension of 1115 Waiver

- Continues the financial savings for state and federal governments achieved through statewide managed care for Medicaid participants;

- Preserves health care access for the state’s uninsured population; and

- Continues health care innovation projects that are improving timelier access to care, reducing avoidable readmissions, improving self-management of chronic conditions, and reducing health care costs.
Trauma Care Funding

- **GOAL**: Secure Driver Responsibility Program to help continue offsetting trauma care costs for designated trauma hospitals.

- **EXPECT**: Legislation to repeal and/or alter DRP.

- **INTERIM WORK**:
  - Engage lawmakers and other on importance of DPR to funding trauma care in Texas;
  - Look at alternative funding options for trauma fund; and
  - Establish strategy to retain/fix trauma fund.
Other Legislative/Interim Studies

- **Telehealth** – Draft bill provides definition for telemedicine and telehealth. Describes the “practitioner-patient relationship in telemedicine encounters”.

- **Prompt Pay** – Penalties owed to hospitals from health plans that don’t pay on time should be retained.
Texas Board of Nursing

- Monitoring of RN-to-BSN programs
- Adoption of Nurse Licensure Compact
- Regulation of certified nurse aides/unlicensed assistive personnel
- Confidentiality of mental health issues
- Additional resources to address increased complaints re: ARPNs’ practice in “pill mills”
Legislative/Sunset Review

- https://www.sunset.texas.gov/reviews-and-reports/agencies/texas-medical-board

- https://www.sunset.texas.gov/reviews-and-reports/agencies/texas-state-board-pharmacy
Anticipated Bills in 85th Session

- Advance Directives – Number of agents in Medical Power of Attorney.

- Palliative Care – PCIAC (Council) recommendations relating to hospitals’ and health care professionals’ certifications in palliative care.

- HAI/PAE Reporting Requirements.
Anticipated Bills in 85th Session

- Violence in the Workplace – Surveys completed; data to be used to address health care facilities’ and nurses’ issues relating to violence.

- Firearms in Hospitals – Bills to repeal vs. bills to expand exemptions for hospitals.

- APRN Full Practice Authority.

- Continued Funding for Physicians, Nurses, Behavioral Health Professionals and Allied Health Professionals.
Anticipated Bills in 85th Session

- Continued Funding for Physician, Nurse, Behavioral Health Professional and Allied Health Professional Education and Training

  - Severe shortage of primary care physicians, as well as specialists in pediatrics, endocrinology and geriatrics.
  - 3/4 Texas counties designated as mental health professional shortage areas; insufficient number of psychiatrist/behavioral health professionals to serve mental health or substance abuse issues.
Regulatory Issues
The Regulatory Burden

Hospital Oversight and Audits

AUDIT Activity

- Medicare/Medicaid Recovery Audit Contractor (RAC)
- Medicare Audit Contractor (MAC)
- Zone Program Integrity Contractor (ZPIC)
- Comprehensive Error Rate Testing (CERT Contractor)
- Hospital Payment Monitoring Program (HPMP)
- Office of Audit Services
- Annual Work Plan Projects

AUDIT Activity

- Incorrectly Billed Claims
- Processing Errors
- Medical Necessity
- Incorrect Payment Amounts
- Non-covered Services
- Incorrectly Coded Services
- Duplicate Services

Hospitals

DSHS/Compliance Surveys
- Comptroller

THHSC/Medicaid
- TCEQ
- GDEM
- TSBP
- TDFPS
- FDA
- FTC
- FCC
- DOT
- FBI
- DOJ
- SEC
- DOL
- FAA
- DHS
- HHS/HRSA
- NRC
- FCC
- FEMA
- OIG
- OIG
- Joint Commission

STATE Oversight

FEDERAL Oversight

CAMERON KRIER, Vice President, Federal Relations, Advocacy and Public Policy • Phone: 912/465-1557 • Email: cameron@tha.org • www.tha.org
NICU Facility Designation – Rules adopted; designation surveys began Sept. 1.

Maternal Facility Designation – Rules being drafted.

Centers of Excellence – Rules being drafted.

MONITOR FOR BILLS THAT AMEND THESE LAWS.
Trauma Facility Designation -- DSHS

- Trauma Facility Designation – Rules being drafted.
- Stroke Facility Designation – Rules being drafted.
  [http://www.dshs.texas.gov/HDSDataInitiative.shtm](http://www.dshs.texas.gov/HDSDataInitiative.shtm)

MONITOR FOR BILLS THAT AMEND DESIGNATION LAWS OR ESTABLISH REPORTING MANDATES.
Proposed rule to require that fetal tissue at any gestational age, including tissue from an abortion or miscarriage, be buried or cremated. The proposed rule would not apply to fetal tissue donated for research purposes. Current rules allow fetal tissue to be disposed of in the same manner as other medical tissue.

ISSUES in THA/TMA Comment Letter:

- whether a death certificate will be required;
- who is responsible for the costs of cremation and/or internment of the fetal tissue; and
- whether TDSHS conducted an analysis of the compliance and cost implications of the rule for health care facilities.
Policy Issues
Freestanding Emergency Medical Care Facilities and Satellites

- Two types:
  - FEC – A Freestanding Emergency Center is a “satellite” emergency department of a licensed hospital. “Satellite” is the term used by the Texas Department of State Services to distinguish these centers. (Texas Health & Safety Code 241; 25 TAC §133)
  - FEMC – A Freestanding Emergency Medical Center Facility is not a department of a hospital; it has different law and rules. (Texas Health & Safety Code 254; 25 TAC §131)
GETAC (Governor’s EMS and Trauma Advisory Council) established the Taskforce on Freestanding Emergency Departments (FSEDs) and Alternative Care Sites. The charge is to:

- Develop a consensus document on categorization of FSEDs used at local and regional levels to determine expectations on non-satellite freestanding ED facilities that wish to receive EMS patients.
- Develop list of considerations for next legislative session, including developing designation criteria.
- Develop metrics used in regions to determine effectiveness.
Emerging Issues

- Growth in numbers
- Increasing interest among lawmakers in regulating FEMCs – confusion with urgent care centers
- “Surprise” Billing – 2015 notice
- Trauma designation for FEMCs
- Re-establish CON (Certificate of Need)
- Micro hospitals
Key findings suggest plain language reduces:

- Confusion
- Noise
- Response errors
- Staff time for orientation and competency
- Technology challenges
- Different messaging for employees, patients and guests
Principles for Project

- This is a voluntary initiative, it is not a mandate to adopt all or any of the emergency codes recommended & THA isn’t interested in pursuing or responding to any kind of legislative action.
- The recommendations are based on scholarly literature, national safety recommendations & expert review/discussion.
- Use of plain language emergency codes is the long-term goal of this initiative to ensure transparency and patient and public safety.
- Minimizing overhead pages in hospitals is encouraged to provide a quieter hospital environment, leading to improved safety and patient outcomes.
# Current Codes in Texas

<table>
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<tr>
<th>Hospital Name</th>
<th>Fire</th>
<th>Medical Emergency</th>
<th>Infant Abduction/ Missing Person</th>
<th>Hazardous Material Spills</th>
<th>Combative Person/ Security Assistance</th>
<th>Active Shooter/ Hostage</th>
<th>Bomb Threat</th>
<th>Disaster</th>
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*Affiliated with Tenet Healthcare
Proposed Categories/Scenarios

- **Facility Alert** -- Evacuation, Fire & Hazardous Spill
- **Weather Alert** -- Severe Weather
- **Security Alert** -- Abduction, Missing Person, Armed Violent Intruder/Active Shooter/Hostage, Bomb Threat & Combative Patient/Person
- **Medical Alert** -- Mass Casualty, Medical Decontamination & Medical Emergency
Next Steps – Implementation Considerations

- Standardized roll-out guidance
  - Implementation toolkit (templates for policies, education material/opportunities & time line checklist).
    - [http://www.tha.org/plainlanguagecodes](http://www.tha.org/plainlanguagecodes). (THA Members)

- Hospital declaration and pledge to implement
  - Include indication as to which codes adopted.

**NOTE:** Voluntary Program—NO legislation anticipated.
Questions?

Elizabeth N. Sjoberg, RN, J.D.
Vice President/Associate General Counsel
512/465-1539
esjoberg@tha.org
www.THA.org